

\_\_\_\_\_ BILL NO. \_\_\_\_\_

INTRODUCED BY \_\_\_\_\_  
(Primary Sponsor)

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE RECOVERY OF AMOUNTS PAID BY AN INSURANCE COMPANY TO THE CASUALTY AND PROPERTY INSURANCE GUARANTY ASSOCIATION THROUGH THE USE OF A PREMIUM SURCHARGE; AMENDING SECTIONS 33-10-116 AND 33-10-117, MCA; AND PROVIDING AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 33-10-116, MCA, is amended to read:

**"33-10-116. Assessment.** (1) The association shall assess insurers amounts necessary to pay the obligations of the association under 33-10-105(1)(a) subsequent to an insolvency, the expenses of handling covered claims subsequent to an insolvency, the cost of examinations under 33-10-108, and other expenses authorized by this part.

(2) The assessments of each member insurer ~~shall~~ must be in the proportion that the net direct written premiums of the member insurer for the preceding calendar year bear to the net direct written premiums of all member insurers for the preceding calendar year. Each member insurer ~~shall~~ must be notified of the assessment not later than 30 days before it is due. ~~No~~ A member insurer may not be assessed in any year an amount greater than 2% of that member insurer's net direct written premiums for the preceding calendar year.

(3) If the maximum assessment together with the other assets of the association does not provide in any ~~one~~ 1 year an amount sufficient to make all necessary payments, the funds available ~~shall~~ must be prorated and the unpaid portion ~~shall~~ must be paid as soon ~~thereafter~~ as funds become available.

(4) The association may exempt or defer, in whole or in part, the assessment of any member insurer; if the assessment would cause the member insurer's financial statement to reflect amounts of capital or surplus less than the minimum amounts required for a certificate of authority by any jurisdiction in which the member insurer is authorized to transact insurance.

(5) Each member insurer may set off against any assessment authorized payments made on covered claims and expenses incurred in the payment of ~~such~~ those claims by the member insurer and may recover the amount of an assessment as provided in 33-10-117."

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2           **Section 2.** Section 33-10-117, MCA, is amended to read:

3           **"33-10-117. Recognition of assessments in rates -- surcharge.** The rates and premiums charged  
4 for insurance policies to which this part applies ~~shall~~ must include amounts sufficient to recoup a sum equal to  
5 the amounts paid to the association by the member insurer less any amounts returned to the member insurer  
6 by the association~~;~~ ~~and such~~ The rates shall may not be deemed considered excessive because they contain  
7 an amount reasonably calculated to recoup assessments paid by the member insurer. A policy may contain a  
8 provision for a direct surcharge in an amount calculated to allow the insurer to recoup a sum equal to the  
9 amounts paid to the association by the member insurer less any amounts returned to the member insurer by the  
10 association. The surcharge must be based on the proportion of the premium for the policy to the net direct written  
11 premiums of the member insurer for the preceding calendar year."

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13           **NEW SECTION. Section 3. Applicability.** [This act] applies to policies issued or renewed on or after  
14 [the effective date of this act].

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